

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Appeal from Order No.(St.) 22999 of 2007.**

National Institute of Bank
Management ..Appellant

versus

Ali Hamidbhai Daruwala ..Respondent.

Mr.A.V.Anturkar for the Appellant

**Coram : S.R.Sathe, J.
Dated : 8th Oct., 2007**

P.C.

1. Heard Shri Anturkar, learned Advocate for the appellant.

2. The learned advocate submitted that he filed suit No.971 of 2007 under Section 6 of the Specific Relief Act against the respondents-original defendants and prayed for possession of the suit property described in detail in para 1 of the plaint. He also filed an application for temporary injunction restraining the defendants from creating third party interest in the suit property and carrying out any construction in the suit property. However, the said application is dismissed by the learned CJSD, Pune on 5.10.2007. The learned advocate further submitted that taking advantage of the said order the defendants are likely to carry

out construction in the suit property or they may dig up the suit land. According to plaintiffs the water pipe line, electricity line, cable lines which are connected to the hostel of the Plaintiff - National Institution of Bank Management have been laid underground and going through the suit property. The plaintiff apprehends that if the defendants start digging up the said land, then the said water pipe lines and cable lines would get damaged and as a result of the same, the necessary water supply, electric supply etc which is being provided through the said land to the hostel of the plaintiff would be disturbed and irreparable loss would be caused to plaintiffs, and great inconvenience would be caused to the students residing in the hostel. He, therefore, submitted that till one day after the time he gets the copy of the impugned order, the defendants be restrained from carrying out any construction or digging the suit land.

3. The learned advocate also submitted that after the pronouncement of the order, the plaintiff moved the said court and requested for issuing direction to defendant for maintaining status quo

atleast till the copy of the order is made available, however, the learned trial Judge did not pass any order on the said application.

4. Having regard to the fact that the copy of the impugned order is not made available to the plaintiff and the plaintiff is apprehending the danger as mentioned above, by accepting the statement that has been made at the bar by the learned advocate for the plaintiff, in the interest of justice I pass following order:

ORDER

1. The defendants are directed not to dig up the suit land or carry out any construction on the suit land till one day after the time the copy of the impugned order is made available to the parties or till 10.10.2007 at 3.0p.m. whichever is earlier.

2. The defendants shall also not create any third party interest in respect of the suit property till the time mentioned above. However, it is made clear that as a result of this order, the plaintiff should not enter upon the suit property or create

any third party interest in respect of the same till above mentioned period.

3. It is only under the exceptional circumstances mentioned above, with a view to avoid inconvenience to the students residing in the hostel of plaintiff, the above mentioned order is passed.

4. The appellant to serve copy of this order on the defendants and the matter to appear before this Court on 10.10.2007 at 3.00 p.m.

5. Issue notice to respondents returnable 10.10.2007.

6. Parties to act on the authenticated copy of this order.

(S.R.Sathe, J.)